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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-200440

DATE: April 9, 1986

MATTER OF: Chan Sambo

DIGEST: Denial of a claim for work allegedly performed for the American Embassy prior to the fall of Phnom Penh, Cambodia, is reaffirmed. A claim for services allegedly provided under contract to the Government may not be paid where no Government records exist relating to the claim and the claimant has not met the burden of proof as to the existence and nonpayment of a valid claim against the Government. Even if sufficient proof were submitted establishing the existence of a contract, the value of any judgment recovery could only be based on the value of the Cambodian riel at the time of judgment.

By letter dated February 13, 1986, Mr. Chan Sambo (Chan) has asked that we reconsider our decision, B-200440, October 16, 1980. Our earlier decision resulted from Chan's appeal of a settlement certificate issued by our Claims Division on April 30, 1980. For the reasons indicated below, we must again deny Chan's claim.

Chan indicates that he performed work under contract with the United States Embassy in Phnom Penh, Cambodia (Khmer Republic) during the months preceding the Khmer Rouge takeover of April 17, 1975. He states that although he had to destroy the contract and related purchase orders when the Communists took over, he maintained notes, legible only to himself, from which he recreated invoices. In our earlier decision we held that the invoices submitted were insufficient to establish a claim against the United States.

In requesting our reconsideration Chan has now sent us correspondence between himself and the governments of Australia and Germany which indicate that those governments agreed to pay Chan for services performed under similar circumstances. He also lists the names of several individuals he asserts were associated with the United States Embassy in Phnom Penh, asking that we verify the legitimacy of his claim with those individuals.

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In our opinion, the correspondence between Chan and the German and Australian governments is of no probative value. The fact that these governments paid Chan for work he performed for them in Cambodia does not establish that he performed work for the American Embassy. Further it appears that these governments paid Chan on the basis of documents establishing that he had in fact performed the work. However, as we stated in our 1980 decision, the State Department has informed us that all official records of the Phnom Penh Embassy for the period in question have been destroyed. There are thus no documents to support Chan's claim.

As to Chan's list of possible witnesses, we have often stated that this Office settles claims only on the basis of the written record, and that the burden of proof as to the existence and nonpayment of a valid claim against the Government is on the person asserting the claim. E.g., B-197386, June 15, 1983; see 4 C.F.R. § 31.7 (1985). Further, our claim procedures, as set forth in 4 C.F.R. Part 31 (1985), do not provide for investigations, interviews of witnesses, or adversary hearings.

Notwithstanding the rules stated above, in light of the unusual situation presented by this case, our Office attempted to independently determine the facts in this case. We were able to locate only one of the individuals that Chan listed in his most recent correspondence to this Office. This State Department employee worked at the Phnom Penh Embassy at the time of the Khmer Rouge takeover, but was unable to corroborate Chan's representation of the facts. We are, therefore, still forced to conclude that Chan has not met the burden of proof as to the existence and nonpayment of a claim against the Government.

Even if Chan were to satisfactorily establish the existence of a contract, it is unlikely our Office could authorize payment since the reconstructed invoices he has submitted indicate that the alleged agreement called for payment in Cambodian riels. It has long been the American rule of law that when payment in foreign currency payable in a foreign country is called for in a contract, the value of any judgment recovery is based on the value of that foreign currency at the time a judgment is rendered in an American court. Deutsche Bank Fiable Nuremberg v. Humphrey, 272 U.S. 517 (1926); Tillman v. Russo Asiatic Bank, 51 F.2d 1023 (1931). Accordingly, since the Cambodian riel has no present value, even if Chan proved the existence of a contract, any judgment would have no monetary value.

In summary, we must conclude that neither the information concerning Chan's work for other governments nor his identification of individuals who may have been associated with the United States Embassy in Phnom Penh constitutes sufficient proof to establish the validity of his claim. Further, even if sufficient proof were subsequently submitted, any judgment obtained in an American court would have no monetary value. Accordingly, we reaffirm our earlier decision.



Acting Comptroller General
of the United States